

# **Initial Statement of Reasons**

## **CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

### **Title 27. California Code of Regulations**

#### **Division 1. General Functions and Responsibilities**

##### **Subdivision: 0.5**

#### **Chapter 2: Environmental Enforcement and Training Grant Program**

### **SPECIFIC PURPOSE OF THE REGULATION**

These regulations describe the process for awarding grant funds under the Environmental Enforcement and Training Grants Program established within the California Environmental Protection Agency, Office of the Secretary ("Secretary") by the Environmental Enforcement and Training Act of 2002 (Stats. 2002, c. 1000). The specific purposes of the regulations are:

- (1) To describe procedures for applying for Environmental Enforcement and Training Act grants.
- (2) To describe criteria to be used by the Secretary to determine which applications will be funded.
- (3) To describe the administrative and fiscal requirements governing the receipt and expenditure of the grant funds.

### **NECESSITY**

The Governor signed legislation that, effective January 1, 2003, amended existing Penal Code sections 14300, et seq., and created the Environmental Enforcement and Training Act of 2002 (Ch. 100, Stats. 2002) ("Act"). This legislation requires the Secretary, not later than 12 months after the date when the Act may be implemented, to prepare and issue regulations.

The Act established a vehicle for funding environmental enforcement training and enforcement programs and created a grant program in the California Environmental Protection Agency to provide financial assistance for statewide education and training programs in the enforcement of environmental laws for peace officers, investigators, firefighters, state and local environmental regulators, and public prosecutors. The Act also codified the Environmental Circuit Prosecutor Project (Project) and provides a potential source of financial support for the Project.

The new law created the Environmental Enforcement and Training Account within the general fund for the deposit of funds contributed from public or private organizations, individuals, and from the proceeds of settlements or judgments in administrative actions or state or federal civil court actions. The Secretary of Cal/EPA is required to administer the Account in order to carry out the legislative purpose of the Act.

The proposed regulations, Chapter 2, Environmental Enforcement and Training Grant Program, Article 1, Description, Procedures, Criteria, Restrictions, and Administration, discussed below, describe the procedures for applying for grants, the criteria to be used in determining which applications will be funded, and the administrative and fiscal requirements governing the receipt and expenditure of the grant funds.

#### Section 10012 Definitions

This section is necessary to incorporate the definitions in Penal Code section 14300(b) and add (b) the definition for the California Environmental Protection Agency.

#### Section 10013 General Provisions

(a) This section is necessary to describe statutory authority for the Environmental Enforcement and Training Act of 2002 including the Secretary's responsibilities in establishing the Environmental Enforcement and Training Grant Program.

(b) This section is necessary to describe statutory authority for the Environmental Enforcement and Training Account and the method of distribution of funds by the Secretary.

#### Section 10014. Purpose of the Environmental Enforcement and Training Grant Program

This section is necessary to describe the purpose of the Environmental Enforcement and Training Grant Program authorizing the Secretary of Cal/EPA, under Penal Code section 14301, et seq., to award grant funds for both mandatory and discretionary environmental training and enforcement grants. It describes the entities that will receive mandatory grants and the type of entities that may receive discretionary grants. The recipients of these funds are authorized by statute as follows:

- (a) This section describes the organizations which will receive mandatory grant awards.
- (b) This section describes the kinds of organizations which may receive discretionary grant funds.

#### Section 10015 Procedures for Applying for Discretionary Environmental Enforcement and Training Act Grants

This section describes the application procedures and supporting documentation necessary to apply for discretionary Environmental Enforcement and Training Act Grants. The Secretary is authorized to determine grant award procedures pursuant to Penal Code section 14301(b). The requirements of the narrative/work plan were modeled after the United States Environmental Protection Agency (U.S. EPA) Office of Environmental Justice Small Grants Program – Application Guidance.

- (a) An application is necessary to obtain information about what the name of the grant for which application is made, who is applying for the grant, and to obtain contact information, including name, address, telephone numbers, of the applicant.
- (1) The applicant will be required to submit a narrative/work plan which will describe the applicant's proposed project. To specifically outline information about an applicant's proposed project, a narrative/work plan is required.
- (A) The objectives of the proposed project are necessary for the Secretary to evaluate what outcome is expected of the project.
- (B) Identification of the applicant's training target audience is necessary to conform with the requirements stated in the grant announcement.
- (C) Identification of environmental statutes/acts are necessary to ensure conformance with current law in proposed training.
- (D) This section is necessary to define the nature of the organization and gather documentation needed to verify the organization's nonprofit status.
- (E) This section is necessary to determine the stability of the nonprofit organization.
- (F) This section is necessary to identify projects the organization considers it has been successful with in the past to provide information on their ability to carry out their grant award objective.
- (G) This section is necessary to obtain the description of the applicant's environmental justice objective which is a required criterion for a grant award. See section 10016.
- (H) This information is necessary to evaluate whether the types of plans, timeframes and expected results meet the requirements in the grant announcement.
- (I) This section is necessary to explain what process will be used to evaluate and measure project success. It will demonstrate whether the applicant has considered the benefits and challenges associated with the project.
- (J) This information is necessary to demonstrate whether the proposed project can be accomplished with the grant funds requested.
- (K) This information is necessary to ascertain whether the proposed project is a new model which may be replicated in other settings.
- (L) This section is necessary to provide the qualifications of key personnel who will be involved in the project and which of these persons will be the lead over the project. This information will be used to ensure qualified staff are available to direct the project.
- (m) This section is necessary to demonstrate that entities other than the recipient organization, significantly involved in the project, have acknowledged their commitment to the project.

#### Section 10016 Eligibility, Criteria, Review and Selection Process

Subsection (a) ELIGIBILITY is necessary to describe what entities are and are not eligible to apply for and receive grant funds and under what criteria funds may be awarded for local environmental regulators and the Commission for Peace Officer Standards and Training.

- (1) This section is necessary to advise individuals that they are ineligible to receive grant awards. Penal Code section 14300, et seq., states who is eligible to receive grant awards and individuals are not authorized by statute to receive these grant awards.

(2) This section is necessary to describe what type of organization is eligible to apply for discretionary grant awards as authorized by Penal Code section 14301(c).

(3) This section clarifies prior grant recipients are not restricted from applying for future grant awards. The Secretary is authorized to determine how grant awards are to be funded pursuant to Penal Code section 14301(b); nothing in statute prohibits the Secretary from awarding more than one grant to a prior grant recipient.

(4) This section clarifies that preference may be given to organizations that have not previously received grants. The Secretary will encourage eligible entities to apply for grant funds such as organizations that have never received grant awards. The Secretary is authorized to determine how grant awards are to be funded pursuant to Penal Code section 14301((b) and has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(5) This section is necessary to describe under what circumstances local environmental regulators may apply for local assistance grants as authorized by Penal Code section 14308(b).

(6) This section is necessary to describe under what conditions the Commission for Peace Officer Standards and Training may seek additional grant funds as authorized pursuant to Penal Code section 14314(d)(2).

(7) This section is necessary to describe under what conditions proposed projects will be ineligible for funding or evaluation. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

Subsection (b) CRITERIA describes how the narrative/work plan will be used as the primary criteria to award discretionary grants. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(1) This section is necessary to explain that all applications may not be funded due to budget limitations. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(2) This section is necessary to explain how proposed projects will be evaluated. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(3) This section is necessary to explain that the receipt of grant awards will be conditioned upon incorporation of environmental justice objectives (Public Resources Code section 71110) into proposed environmental enforcement training courses and how that incorporation may occur as follows:

(a) This section is necessary to incorporate an introduction to basic environmental justice principles and laws in training programs.

(b) This section is necessary to require training in the development of targeted enforcement projects or plans that benefit communities most burdened by pollution sources or impacts.

(c) This section is necessary to require training that will ensure public participation and information sharing.

The Secretary is authorized to determine how grant awards are to be funded pursuant to Penal Code section 14301((b) and has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program. – Application Guidance.

(4) This section is necessary to explain the types of projects that will be considered for grant awards. The Secretary is authorized to determine how grant funds are to be awarded pursuant to Penal Code section 14301((b).

(5) This section is necessary to explain the considerations the Secretary will use in making grant awards. This Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program.

Subsection (c) REVIEW AND SELECTION PROCESS describes the review, evaluation, selection and notification process for applicants of discretionary grant funds.

(1) This section describes how applications will be acknowledged as received. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(2) This section explains that the Secretary will review the applications and make final selections and, in making a selection, the Secretary will consider geographic and socioeconomic balance; diverse nature of the projects, costs, and projects whose benefits can be sustained after the grant is completed. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program. – Application Guidance.

(3) This section describes the process for notifying finalists. It also advises the finalist(s) that they may be required to complete additional government forms prior to receiving grant funds. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(4) This section explains that not all applications may be funded due to budgetary or other considerations. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(5) This section describes how notification of applicants will take place if their projects are not selected for grant funding. The Secretary has modeled this section after the

U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(6) This section provides notice to applicants that the decision of the Secretary in awarding grants is final. The Secretary is authorized to determine grant award procedures pursuant to Penal Code section 14301(b).

Section 10017 Restriction on Grants

This section is necessary to describe restrictions on the use of grant funds. This information includes:

(a) This section describes the authorized use of grant funds. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(b) This section describes the unauthorized use of grant funds. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(c) This section describes the prohibited use of matching grant funding. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(d) This section applies to all grantees and notifies them of the requirement to certify their compliance with all state laws, regulations, and requirements before receiving funds. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

10018 Reporting Requirements for Grant Recipients

(a) This section is necessary to address project completion time frame. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(b) This section is necessary to identify what organization is responsible for the successful completion of the project. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(c) This section is necessary to describe the grant recipient reporting period. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(d) This section is necessary to explain the possible forfeiture of unused grant funds. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(e) This section is necessary to explain that an audit or financial account may be required of a grant recipient. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

(f) This section is necessary to describe what the Secretary will do with grantees' final reports. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The input of a working group consisting of representatives of Cal/EPA and its boards and departments, the Department of Fish & Game, the Butte, Los Angeles and Shasta County District Attorneys Offices, the California District Attorneys Association, the Attorney General's Office, the Commission on Peace Officer Standards and Training and legislative staff, led to drafting of the Act. Staff reviewed the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance in preparing these regulations.

#### REASONABLE ALTERNATIVE TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

The proposed regulations are required to implement the Act that authorized the Secretary to establish the Environmental Enforcement and Training Act Grant Program. No other alternative grant program authorized under California statute exists to fulfill the objectives outlined in this Program.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Secretary of Cal/EPA has determined that the Environmental Enforcement and Training Grant Program will not affect small businesses because these regulations do not directly regulate businesses, nor will it create or eliminate jobs or new or existing businesses within the State of California. Therefore, no alternatives are identified to lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY SMALL BUSINESS

This regulatory action affects the distribution of environmental enforcement grants to public agencies or private nonprofit organizations for purposes of supporting statewide environmental enforcement, education, and training programs. The targeted audience

for the training programs includes peace officers, investigators, firefighters, state and local environmental regulators, and public prosecutors. No significant adverse economic impact on any small business was identified. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action because a private individual cannot qualify for grant funds.

#### CONFLICT WITH AND OR DUPLICATION OF FEDERAL REGULATIONS

The Secretary has determined that the proposed regulations do not conflict with or duplicate any Federal regulations.